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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/682,019	07/10/2001	Michael Pastula	45283.56	2684

22828 7590 06/20/2003

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CANADA

EXAMINER

TSANG FOSTER, SUSY N

ART UNIT PAPER NUMBER

1745

6

DATE MAILED: 06/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/682,019	PASTULA ET AL.
	Examiner	Art Unit
	Susy N Tsang-Foster	1745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 10 July 2001.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-15 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1,6-8,11,12 and 14 is/are rejected.

7) Claim(s) 2-5,9,10,13 and 15 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>4,5</u> .	6) <input type="checkbox"/> Other: _____

**DETAILED ACTION**

***Priority***

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Canada on 7/10/2000. It is noted, however, that applicant has not filed a certified copy of the foreign application as required by 35 U.S.C. 119(b).

***Information Disclosure Statement***

2. The information disclosure statements filed on 1/22/2002 and on 1/23/2003 have been considered by the Examiner.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 6-8, 11, 12, and 14 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by WO 95/10126.

See Figures 1, 2, 5, 8, and 13, and page 5, lines 6-27; page 11, lines 12-32; page 17, lines 3-28; page 18, lines 6-15; and page 23, lines 3-10 of the reference.

5. Claims 1, 6-8, 11, 12, and 14 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Diethelm (US 5,840,437).

See col. 2, lines 46-64; col. 3, line 22 to col. 4, line 6, and Figures 2 and 4 of the reference.

6. Claims 1, 6-8, 11, 12, and 14 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Fischer et al. (US 3,718,506).

See col. 3, line 48 to col. 4, line 60; col. 5, lines 11-62; and Figures 1 and 2 of the reference.

#### *Allowable Subject Matter*

7. Claims 2-5, 9, 10, 13, and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### *Conclusion*

Any inquiry concerning this communication or earlier communications should be directed to examiner Susy Tsang-Foster, Ph.D. whose telephone number is (703) 305-0588. The examiner can normally be reached on Monday through Thursday from 9:30 AM to 8:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached at (703) 308-2383. The phone number for the organization where this application or proceeding is assigned is (703) 305-5900.

The fax phone numbers for the organization where this application or proceeding is assigned is (703) 872-9310 for regular communications and (703) 872-9311 for After-Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

st/16 June 2003

*Susy Tsang Foster*